

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye  
Gregory Scott  
Marshall Johnson  
Phyllis Reha  
Ellen Gavin

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

Jason D. Topp  
Qwest Corporation  
Law Department  
200 South Fifth Street, Room 395  
Minneapolis, MN 55402

SERVICE DATE: JUN 12 2003

DOCKET NO. P-422,421/IC-03-426

In the Matter of an Application for Approval of the March 25, 2003 Amendment to the Interconnection Agreement Between AT&T Communications of the Midwest, Inc. and Qwest Corporation (Originally Approved in Docket No. P-442,421/M-96-855); Incorporating Certain Terms, Rates and Conditions for Facility Decommissioning Reimbursement

The above entitled matter has been considered by the Commission and the following disposition made:

**Approved, with the exceptions recommended by the Department of Commerce in its attached comments**

**This decision is issued by the Commission's consent calendar subcommittee, under a delegation of authority granted under Minn. Stat. § 216A.03, subd. 8 (a). Unless a party, a participant, or a Commissioner files an objection to this decision within ten days of receiving it, it will become the Order of the full Commission under Minn. Stat. § 216A.03, subd. 8 (b).**

The Commission agrees with and adopts the recommendations of the Department of Commerce which are attached and hereby incorporated in the Order.

BY ORDER OF THE COMMISSION

  
Burl W. Haar  
Executive Secretary

(S E A L)

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MINNESOTA  
DEPARTMENT OF  
COMMERCE

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MIN PUBLIC UTILITIES COMMISSION

May 20, 2003

Burl W. Haar  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7th Place East, Suite 350  
St. Paul, Minnesota 55101-2147

RE: In the Matter of the Application for Approval of the Amendment to an  
Interconnection Agreement Between AT&T Communications of the Midwest, Inc.  
and Qwest Corporation  
Docket No. P422,421/IC-03-426

Dear Dr. Haar:

Interconnection agreements and amendments to interconnection agreements that are not arbitrated under §252 of the Federal Telecommunications Act of 1996 may be approved without hearing under Minn. Stat. §216A.03, subd. 7. The Public Utilities Commission's (Commission) Order designating interconnection agreements and amendments to interconnection agreements as subject to a standing order was issued on August 25, 2000 in Docket No. P999/CI-00-634. The use of a standing order is to apply to filings submitted on or after September 1, 2000.

As required by the Commission's August 25, 2000 Order, the Department of Commerce has reviewed and analyzed the current filing. Attached is the Minnesota Department of Commerce's Checklist for processing amendments to interconnection agreements. The Checklist reflects the Department's analysis of the issues and language that the Commission has established to meet the requirements that interconnection agreements or amendments thereto not discriminate against third parties, harm the public interest or conflict with state law.

The amendment was filed on March 25, 2003

*Topic of the amendment:* This amendment incorporates certain terms, rates and conditions for Facility Decommissioning Reimbursement.

Interconnection Agreement amended (Docket No. P442,421/M-96-855 on March 17, 1997).

*Wireless or Wireline:* Wireline.

*The Petition was filed by:*

Jason D. Topp  
Qwest Corporation  
Law Department  
200 South 5<sup>th</sup> Street, Room 395  
Minneapolis, Minnesota 55402

*Conditions:*

This agreement contains one or more bracketed provisions. The Department disagrees with Quest's position that the bracketed provisions are 47 U.S. § 251(b) and (c) services, and are the only provisions that the Commission has authority to approve under 47 U.S. § 252(e). The Minnesota Commission reviews for approval interconnection agreements in their entirety. If, however, the Commission determines that portions of these negotiated agreements are discriminatory to non-parties or are otherwise against the public interest, the Commission has the authority to reject all or part of the agreements. The ability of any CLICHE to opt into provisions contained in the document is governed by Sections 252(a), (e) and (I) of the Telecommunications Act.

The Department recommends that the Commission approve this agreement with the exception of Section 5-Binding Arbitration. If the companies want this section and it does not exist in the underlying agreement, they will have to negotiate an amendment that incorporates the Commission required language and submit it for Commission approval.

The Department's analysis finds that the interconnection agreement complies with the Commission's requirements, except as indicated on the attached Checklist. The Department is submitting this memorandum recommending that the Commission **approve** the amendment to the interconnection agreement either at a Commission hearing or by way of the standing order process ordered on August 25, 2000.

Sincerely,



BRUCE L. LINSCHIED  
Financial Analyst

BLL/jl  
Attachment

## CHECKLIST FOR PROCESSING AMENDMENTS TO INTERCONNECTION AGREEMENTS

### ANALITICAL PROCEDURES

#### A. AMENDMENTS TO INTERCONNECTION AGREEMENTS

- ☒ 1. Amendment modifies an approved interconnection agreement. (Identify docket and date of Order) Docket No. P442,421/M-96-855 on March 17, 1997
- ☐ 2. Amendment addresses language required by the Commission to meet the requirements of 47 CFR 252(e)(2) and (3).
- ☐ 3. The Parties have complied with the Commission's requirement for prior approval of an amendment to an interconnection agreement.<sup>1</sup> (explain) Qwest seeks prior approval of the bracketed language in this agreement on a going-forward basis. This agreement was previously not filed with the Commission, but it is now being submitted to comply with Section 252(a) filing requirements.
- ☐ 4. Amendment addresses an issue on which the Commission has established its position.

Identify the topic: \_\_\_\_\_

- ☐ a) Language complies with the Commission's position. Indicate the section and page where this language is found.  
\_\_\_\_\_
- ☐ b) Language does not comply with the Commission's preference, but was negotiated and, therefore, meets the statutory requirements.<sup>2</sup> Indicate the section and page where this language is found.  
\_\_\_\_\_
- ☒ 5. Amendment does not cover a topic on which the Commission has established a precedent.
- ☒ a. Identify the topic: This amendment incorporates certain terms, rates and conditions for Facility Decommissioning Reimbursement.
- ☒ b. Amendment does not threaten the public interest, discriminate against third parties or conflict with state law.

<sup>1</sup> In the Matter of the Application for Approval of the Agreement for Interconnection and Traffic Interchange between Cellular Mobil Systems of St. Cloud, Minnesota L.L.P. and U S WEST Communications, Inc., Docket No. P421/EM-97-437 at page 6.

<sup>2</sup> In the Matter of the Federal Court Remand of Issues Proceeding from the Interconnection Agreements Between U S WEST Communications and Sprint Spectrum, Triad Minnesota, and Cellular Mobil Systems, ORDER AFTER REMAND APPROVING NEGOTIATED LANGUAGE, P5457,421/M-99-794 dated November 24, 1999 at pages 2 and 3.

☐ 1) Agree (explain).

☒ 2) Disagree. See Checklist Item A.6.

☒ 6. Other Comments.

This interconnection agreement was executed on December 27, 2001. While Qwest previously submitted it to the Department as part of its investigation into Qwest's interconnection agreement filing practices in Docket No. P421/IC-02-197, it is only now being submitted for Commission approval. Although this agreement was not one of the agreements that the Department chose to use as part of its complaint, this should not suggest that Commission approval of this agreement is not necessary. The agreements selected by the Department were limited for the purposes of the contested case process in Docket No. P421/IC-02-197. It is the position of the Department that Qwest has always been obligated to file this agreement.

This agreement contains one or more bracketed provisions. The Department disagrees with Qwest's position that the bracketed provisions are 47 U.S.C. § 251(b) and (c) services, and are the only provisions that the Commission has authority to approve under 47 U.S.C. § 252(e). The Minnesota Commission reviews for approval interconnection agreements in their entirety. If, however, the Commission determines that portions of these negotiated agreements are discriminatory to non-parties or are otherwise against the public interest, the Commission has the authority to reject all or part of the agreements. The ability of any CLEC to opt into provisions contained in the document is governed by Sections 252(a), (e) and (i) of the Telecommunications Act.

In this agreement, the Department has the following concern: Section 5, Binding Arbitration does not contain the Commission required language.

The Department believes that the Minnesota Commission should take action that will ensure that the public interest and the rights of CLECs are protected, including the contracting CLEC. Moreover, since this agreement has been and continues to be in effect, the Department believes that it would be disruptive to the CLEC if the Commission were to reject the agreement in its entirety.

Thus, the Department recommends that the Commission approve this agreement with the exception of Section 5, Binding Arbitration. If the companies want this section and it does not exist in the underlying agreement, they will have to negotiate an amendment that incorporates the Commission required language and submit it for Commission approval.

*B. RECOMMENDATION OF THE DEPARTMENT*

  x   1. Accept the interconnection agreement/amendment.

Conditions: See Checklist Item A.6.

       2. Reject the interconnection agreement/amendment. (Not subject to the standing order.)